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REMARKS

Claims 1, 3, 4 and 6-9, as amended, remain herein.

Minor, editorial changes for improved clarity have been made in claims 1, 3, 4 and 6-9, and claim 1 has been rewritten to include the limitations of claims 2 and 5. Claims 2 and 5 have been cancelled without prejudice or disclaimer.

The specification has been edited for clarity.

1. Claims 1-9 were rejected under 35 U.S.C. §112, first paragraph, as allegedly not supported by an enabling disclosure.

Minor clarifying edits to the specification have been made. The wording of the claims is consistent with the description in the specification.

Reconsideration and withdrawal of the rejection are respectfully requested.

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2. Claims 1-9 were rejected under 35 U.S.C. §112, second paragraph. Antecedent basis issues have been resolved, and claim 8 has been amended to remove redundant wording.

Reconsideration and withdrawal of this rejection are respectfully requested.

3. Claims 1-4 and 6-9 were rejected under 35 U.S.C. §102(e) over Kaoh U.S. Patent 6,271,814, and claim 5 was rejected under 35 U.S.C. §103(a) over Kaoh '814. Claims 2 and 5 have been cancelled, and the limitations of claims 2 and 5 have been added to claim 1.

The presently claimed display device comprises a light emitting area on which a plurality of light emitting elements are located with spaces therebetween, the spaces defining a nonluminous area on which a nonluminous image is located and visible without the light emitting elements, emission means for selectively causing at least one of the light emitting elements to emit light for displaying a luminous image on the display surface portion, and means for sensing illumination density on

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the display surface portion, the emission means comprising means for switching on supply power to at least one light emitting element when the sensed illumination density is smaller than a predetermined threshold illumination density, and for switching off power to the at least one light emitting element when the sensed illumination density is larger than the predetermined threshold illumination density. This arrangement is nowhere disclosed or suggested in the cited reference.

The Office Action suggested that because illumination sensing means allegedly is known in the sign art, it would have been obvious for a person skilled in the art at the time of the invention to have applied such sensing means to the display device described in Kaoh '814. However, there is no prior art of record supporting that conclusion. No reference rendering obvious applicants' claimed display device has been made of record. The Office Action does not point to any specific prior art that provides the information deficient in Kaoh '814. An Office Action must cite any art that is considered pertinent. Ex parte Code, 148 USPQ 162 (Pat. Off. Bd App. 1965). There is

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a factual analysis required by Graham v. John Deere, 383 U.S. 1, 148 USPQ 459 (1966), which should be followed whenever alleged obviousness of patent claims is in issue. In re Prado and Landau, 214 USPQ 673, 677 (CCPA 1982). The PTO must have a factual basis to support a rejection.

Applicants are entitled to notice of any known prior art apparatus suggesting applicants' presently claimed illuminated sign comprising an illumination sensing means, wherein the emission means includes means for switching on supply power to at least one light emitting element when the sensed illumination density is smaller than a predetermined threshold illumination density, and for switching off power to the at least one light emitting element when the sensed illumination density is larger than the predetermined threshold illumination density, as recited in applicants' claim 1.

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For the foregoing reasons, Kaoh '814 fails to disclose all elements of applicants' claimed invention, and therefore is not a proper basis for rejection under §102. And, there is no disclosure or teaching in Kaoh '814 that would have suggested the desirability of modifying any portions thereof effectively to teach or suggest applicants' presently claimed invention, and therefore Kaoh '814 also is not a proper basis for rejection under §103. Claims 3, 4 and 6-9, which depend from claim 1, are allowable for the same reasons described herein for claim 1. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

All claims 1, 3, 4 and 6-9 are now proper in form and patentably distinguished over all grounds of rejection cited in the Office Action. Accordingly, allowance of all claims 1, 3, 4 and 6-9 is respectfully requested.

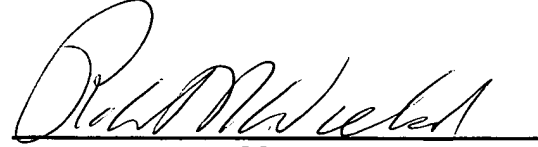
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Should the Examiner deem that any further action by the applicants would be desirable to place this application in even better condition for issue, the Examiner is requested to telephone applicants' undersigned representatives.

Respectfully submitted,

PARKHURST & WENDEL, L.L.P.

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Date

  
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